IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

Cr.MP(M) No. 2091 of 2026
Reserved on 03rd November, 2026
Decided on 4th November, 2026
Uploaded on 4th November, 2026

Ajay Kumar **…Petitioner**

Versus

State of Himachal Pradesh **…..Respondent**

Coram

Hon'ble Mr. Justice Chirag Bhanu Singh, Judge.
[1]Whether approved for reporting?

For the petitioner	**: Mr. Piyush Dhanotia, Advocate.**
For the respondent/State	**: Mr. Rajpal Thakur, Additional Advocate General, assisted by ASI Surinder Kumar, PS Kangra, District Kangra, HP.**

Chirag Bhanu Singh, Judge

The petitioner has preferred an application under Section 483 of Bharatiya Nagarik Suyraksha Sanhita, 2023 (for short "BNSS") seeking post-arrest bail in case FIR No. 112 of 2026, dated 23.07.2026 registered at Police Station Kangra, District Kangra, under Sections 20 & 29 of the Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as "the Act").

2. The facts which emerge from the status report so filed

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[1]Whether reporters of Local Papers may be allowed to see the judgment? Yes

by the respondent-State, is that on 23.07.2026, a police party headed by HC Vipin Kumar was on patrolling. At about 12 Noon, a secret information had been received that two youngsters aged about 20-22 years were sitting in the rain shelter at Jamanabad. One of the youngsters was wearing a black jeans and a white & blue striped T-shirt, while the other youngster was wearing a blue jeans and a black shirt. They were carrying one blue backpack inscribed with the words "IPX". They are carrying charas and are looking to sell the same. In case they are apprehended, a heavy quantity of drugs may be recovered.

3. Acting swiftly, the Investigating Officer HC Vipin Kumar, had recorded the reasons of belief under Section 42(2) of the Act and had sent the same through LC Sanjali to the SDPO, Kangra. In the meanwhile, the police party had proceeded towards the rain shelter at Jamanabad. On the way, the Investigating Officer had met one person namely Kuldeep Kumar, who happened to be the ex-pradhan of Jamanabad. He was associated as an independent witness. Having associated him in the raiding party, the police team had reached the rain shelter and found the two youngsters sitting there.

4. On inquiry, the person wearing the black jeans had disclosed his name as Arpit, while the person wearing a blue jeans and black shirt had disclosed his name as Ajay. He was carrying one backpack bearing an inscription "IPX".

5. After following the codal formalities and in the presence of the independent witness, the Investigating Officer had checked the bag, which yielded the recovery of 554 grams of charas. The same was taken into possession and both the accuseds came to be arrested at the spot. Presently, the petitioner is in judicial custody.

6. I have heard the learned counsel for the parties and gone through the records meticulously.

7. Undisputedly, the quantity of contraband recovered in the present case is indeed “less than commercial”, being 550 grams of charas and as such, the rigors of Section 37 will not ***stricto sensu*** apply in the facts and circumstances of the present case with the same vigor. The recovery is also not solely attributed to the petitioner.

8. No prior antecedants of the petitioner have been reported by the police, nor any prior case under the NDPS Act is stated to have been registered against the present petitioner.

9. It further transpires from the record that the charge-sheet has already been filed. The culmination of the trial is thus likely to take sufficient time. Pre-trial incarceration is otherwise generally loathed by the Courts, as has been held by the Hon'ble Supreme Court in catena of decisions including ***Union of India vs. K.N. Nazeeb 2021 (3) SCC 713*** & ***Javed Gulam Nabi Shaikh vs. State of Maharashtra*** & ***Another (Criminal Appeal No.2787 of 2024 decided on 03.07.2024).***

10. "Bail, not jail" is the golden thread which has been running right through the various judgments rendered by the Hon'ble Supreme Court starting from ***Gurbaksh Singh Sibbia & Others v. State of Punjab, (AIR 1980 SC 1632)***, which has consistently been followed till the decision rendered in ***P. Chidambaram v. Directorate of Enforcement, (AIR 2019 SC 4198)***. The object of granting bail was further elucidated in ***Sanjay Chandra & Others v. Central Bureau of Investigation, (AIR 2012 SC 830)***. The Hon'ble Supreme Court has further reiterated that grant of bail was a general rule, as was categorically held in ***Dataram Singh v. State of Uttar Pradesh, [(2018) 3 SCC 22 : AIR 2018 SC 980]***.

11. The Hon'ble Supreme Court and this Court, in a catena

of decisions, have repeatedly held that an accused is presumed to be innocent until proven guilty. The trial is still at its inception and is likely to take sufficient time. Even otherwise, the quantity of contraband recovered in the present case is intermediate. The recovery is also not solely attributed to the petitioner.

12. For all the reasons discussed hereinabove, the bail petition is thus allowed. As a sequel, the petitioner is ordered to be released on bail subject to his furnishing bail bonds to the tune of Rs.50,000/- with two local sureties of the like amount, to the satisfaction of the learned trial Court subject to the following conditions:-

> *i) That the petitioner shall not tamper with the prosecution evidence nor intimidate, threaten or coerce the witnesses conversant with the facts of the case;*
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> *ii) That the petitioner shall put in appearance before the Investigating Officer or the Court as and when directed;*
>
> *iii) That the petitioner shall not leave the territory of India without the express permission of the Court, he shall surrender passport, if any, before the investigating agency.*

13. The observations, made hereinabove, shall not be taken, as an expression of opinion, on the merits of the case, as these observations are confined only for the purposes of the

disposal of the present petition.

14. The petition stands accordingly disposed of. A copy of this order be sent to the Jail Superintendent, Lala Lajpat Rai District and Open-Air Correction Home, Dharamshala, District Kangra, HP and the learned Trial Court by **FASTER.**

15. Petition stands disposed off in the aforesaid terms, so also the pending miscellaneous applications, if any.

(Chirag Bhanu Singh)
Judge

4th November, 2026
(Ritu)

RITU RANI
Digitally signed by RITU RANI
Date: 2026.11.04 15:32:43 +0545